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V.S.

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/002,648 01/05/98 HORNE

D 042390 P5113

LM02/0402
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EXAMINER

GHEBRETINSAE, T

ART UNIT V S. PAPER NUMBER

2734

DATE MAILED:

04/02/99

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/002,648

Applicant(s)

HORNE

Examiner
TEMESGHEN GHEBRETINSAE

Group Art Unit
2734



- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-10 is/are pending in the application.
- Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-3, 5, 6, and 8-10 is/are rejected.
- ☒ Claim(s) 4 and 7 is/are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.

Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of References Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit:

DETAILED ACTION

1. It would be of great assistance to the Office if all incoming papers pertaining to a filed application carried the following items:

1. Application number (checked for accuracy, including series code and serial no.).
2. Group art unit number (copied from most recent Office communication).
3. Filing date.
4. Name of the examiner who prepared the most recent Office action.
5. Title of invention.

Drawings

2. The drawings are objected to because see PTO-948. Correction is required.

Claim Rejections - 35 USC § 112

3. Claims 9-10 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification lacks an explanation regarding the pseudo noise code being an orthogonal pseudo noise code as claimed in claim 9. ✓

4. Claims 3 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 3, "the first pseudo noise code" lack clear antecedent basis. Also, in claim 9, "the pseudo noise codes" lack clear antecedent basis. ✓

Art Unit:

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-2 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Nagazumi (4,759,034) and Rosen (4,972,480).

Nagazumi and Rosen disclose a communication system comprising the step of creating an encoded pseudo noise code and spreading the information signal by modulating the information signal with the encoded pseudo noise code. Demodulating the information signal with the encoded PN code. The encoded pseudo noise is the modified part of the pseudo noise and corresponds to the user. (See col. 5, lines 4-12 Nagazumi and col.1, lines 23-43 and figs.3 and 4 Rosen)

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3,5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosen and Nagazumi.

Art Unit:

Rosen and Nagazumi disclose the subject matter of the invention substantially as claimed. Rosen and Nagazumi differs from the claimed invention in that both are silent in terms of the encoded pseudo noise code being same as the pseudo noise code with one bit inverted as claimed in claims 3 and 5. However, it would have been obvious to one of ordinary skill in the art to design the encoded pseudo noise code of Rosen or Nagazumi to be a pseudo noise code with one bit inverted since there is no new or unexpected result.

Allowable Subject Matter

9. Claims 4 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Teeter et al (4,117,271); Carlin (4,912,722) and Zscheile, Jr. et al (4,429,310) are cited as related to the subject matter of the present invention.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to T.Ghebretinsae whose telephone number is (703) 305-4777. The examiner can normally be reached on Monday-Friday from 8:30 a.m. to 6:00 p.m.

Art Unit:

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Chin, can be reached on (703) 305-4714. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-5091.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.

T.Ghebretinsae

3/24/99.

TEMESGHEN GHEBRETINSAE
PRIMARY EXAMINER